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Fifty-fifth session

SUMMARY RECORD OF THE 1346th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 10 August 1999, at 3 p.m.

Chairman: Mr. ABOUL-NASR

later: Mr. DIACONU

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Eleventh, twelfth, thirteenth and fourteenth periodic reports of Chile

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Eleventh, twelfth, thirteenth and fourteenth periodic reports of Chile (CERD/C/337/Add.2; HRI/CORE/1/Add.103)

1. At the invitation of the Chairman, Mr. Salinas, Mr. Labbe, Mrs. Aravena and Mrs. Bertoni (Chile) took places at the Committee table.

2. Mr. SALINAS (Chile) said that the first part of his Government's periodic report on the implementation of the Convention, which was the first to be submitted to the Committee since 1992, stated that the Europeans who settled in the territories of the indigenous populations during the colonial era established a system of discrimination based on race, origin, customs and colour and a society based on marginalization and segregation to the detriment of the indigenous inhabitants. At the end of the nineteenth century, the "pacification" policy was supplemented by assimilation measures that involved confiscation of the lands of the indigenous inhabitants, who were confined in reservations, and the resulting land ownership system sometimes gave rise to conflicts.

3. In order to rectify that situation and combat discrimination against the indigenous inhabitants in accordance with its obligations under the Convention, the Chilean Government had taken a number of important measures, including the Indigenous Act of 1993. That Act, which was inspired by article 2 of the Convention, stipulated that the Chilean State had an obligation to ensure the protection and advancement of the indigenous inhabitants and recognize the existence of the Mapuche and other ethnic groups such as the Aymaras, the Quechuas, the Cunsas or Atacameños, the Collas, the Rapa Nui, the Kawashkars or Alacalufes and the Yámanis or Yaganes. It further stipulated that those groups should be taken into account in the population censuses and recognized the existence of the indigenous communities as family and local entities possessing a common territory and led by a traditional chief. Between 1994 and 1999, 1,554 communities and 372 indigenous associations were officially registered in the country under the terms of that Act.

4. In accordance with the provisions of articles 2 and 6 of the Convention, the Indigenous Act recognized the right of the indigenous inhabitants to organize their own cultural activities and, in article 8, prescribed penalties for any discrimination against those groups on grounds of their origin or their culture. Under the terms of that article, nine cases were brought before the National Indigenous Development Corporation (CONADI), which settled them through amicable arrangements. With regard to land ownership, the Act acknowledged that the State had an obligation to ensure that the lands of the indigenous inhabitants were used in a proper manner, without ecological damage, and made provision for a full protection and development system for the indigenous communities. The aim of the Indigenous Lands and Waters Fund, for example, was to help the indigenous communities to purchase or recover land. About 20,300 indigenous families, i.e. some 100,000 persons, had benefited from the aid provided by that Fund. The Act had also established an

Indigenous Development Fund, administered by CONADI, for the purpose of financing special programmes for the benefit of indigenous communities and their members through investment, management and institutional consolidation activities. Finally, three indigenous development zones, endowed with special status, had been established in which self-management was being promoted and two further zones were to be established in the near future.

5. Other provisions of the Act concerned the cultural development of the indigenous communities, mainly through a bilingual, cross-cultural training programme and a scholarship programme. Indigenous inhabitants had already been awarded 48,200 scholarships. Between 1994 and 1998, the Government had funded 29 bilingual teaching programmes and supported the establishment of 23 inter-ethnic kindergartens. Eight studies of vernacular languages, of three alphabets and of grammars had been undertaken in order to make it easier to learn the Mapuche, Aymara and Rapa Nui languages and the foundations of a bilingual, cross-cultural teaching policy had been laid in collaboration with the Ministry of Education.

6. During and after the period covered by the report, the Chilean Government had adopted a series of special measures designed to protect the Kawashkar (101 persons) and Yámani (74 persons) communities in the southern part of the country, as well as the Rapa Nui community on Easter Island, through the establishment of indigenous affairs offices, supervised by CONADI, which were responsible for coordinating, in the field, the State's activities for the benefit of those communities. Since 1999, the first two had been benefiting from a development plan comprising agrarian reform, a cultural activity programme and a special economic development programme. For its part, the Rapa Nui community was benefiting from a linguistic project which had made it possible to develop a Rapa Nui alphabet and compile the first Rapa Nui-Spanish dictionary. A bilingual cross-cultural school was operating on Easter Island and 80 per cent of the Rapa Nui students studying on the mainland were receiving education grants. One hundred and twenty Rapa Nui families were currently benefiting from a four-year programme for the development of fruit and market garden production. One thousand five hundred hectares of national forest land had already been returned to 280 families on the Island as part of a programme that would be continued in the year 2000.

7. In order to give full effect to article 2 of the Convention, the Chilean Government had established the National Indigenous Development Corporation (CONADI), a public body specially assigned to promote, coordinate and implement governmental activities in furtherance of the economic, social and cultural development of the indigenous communities and their members and to promote participation by those communities in national life. That body's National Council consisted of eight representatives elected by the indigenous communities and more than 50 per cent of CONADI's staff were indigenous. CONADI's achievements in 1998 and 1999 included a national specialized legal aid plan, a national programme to stimulate public awareness of indigenous problems, an increase in the financial resources of the Indigenous Lands and Waters Fund, the implementation of 22 experimental bilingual cross-cultural teaching projects, a national programme to establish halls of residence for indigenous students, a programme for the provision of _in situ_ services by municipal councillors and a doubling of the number of education grants awarded to indigenous students between 1998 and 1999.

8. With regard to the international instruments promoting the interests of indigenous peoples, Chile had ratified the treaty establishing the Development Fund for the Indigenous Peoples of Latin America and the Caribbean. It had also proclaimed 24 June as the National Day for Indigenous Peoples and had set up a commission for the development of Easter Island.

9. At the constitutional level, the Chilean Congress was currently considering a reform bill under which the Chilean ethnic communities would be granted the status of indigenous peoples. A pact concerning respect for citizens had been concluded between the Government, representatives of the indigenous communities and various socio-cultural sectors in the country. Finally, an inter-ministerial development plan involving the ministries, funds and local authorities concerned had been formulated to improve the quality of life of the indigenous inhabitants and meet their most urgent needs.

10. With regard to the problem of intolerance and racial discrimination, he said that only one fifth of the Chileans harboured xenophobic prejudices, others having racist or negrophobic prejudices. However, Chilean society as a whole did not tolerate racist or xenophobic behaviour and, by virtue of the positive measures taken by the public authorities for the benefit of the indigenous communities, racial tolerance prevailed in regard to those population groups. In that connection, he mentioned an important ruling handed down in 1993 by the Chilean Supreme Court concerning a case of racial discrimination against a Korean immigrant who had been denied access to a health and recreation centre on the ground that she smelled bad. The Court held the view that the fact of preventing a person from entering any public place on grounds of race, gender, language, religion or any other ethnic, social or cultural condition constituted unequal treatment and discrimination in breach of human rights and the relevant international instruments which had the force of law in Chile (see para. 63 of the report). There were also various standards that guaranteed equality before the law and punished any discriminatory act or behaviour. Moreover, the Chilean Congress was currently considering a draft bill concerning racial and ethnic discrimination that made provision for a review of the Penal Code which, for the first time, would punish acts of discrimination, physical violence, psychological abuse or contemptuous behaviour on grounds of race, religion or ethnic origin. Other legal instruments, such as the Labour Code, the Consumer Protection Act and the Abusive Publicity Act, also condemned discrimination.

11. Although Chile was not the only country in which discriminatory or racist behaviour had been reported, in contrast to the others it had taken the measures needed to establish a society that was more tolerant and respectful of its diversity. Furthermore, the country had never had to deal with any cases of racial discrimination attributable to public officials in the discharge of their duty.

12. In conclusion, he emphasized that, on 5 August 1999, at the time of signature of the Pact concerning respect for citizens, the Chilean President had indicated that the country should do more to further cultural richness and diversity. In particular, greater involvement of cultural, educational and social institutions and the media would promote tolerance among all Chileans, regardless of their origin.

13. The CHAIRMAN regretted that the information that the delegation had just provided did not appear in the report, particularly since that information referred, inter alia, to measures adopted before the preparation of the report and contained numerous highly interesting statistical data.

14. Mr. VALENCIA RODRIGUES (Rapporteur for Chile) said that the Chilean delegation's oral statement constituted a useful supplement to the report under consideration and should be regarded as an integral part thereof.

15. Noting that the report recognized the existence of discrimination against indigenous minorities since the colonial era, as well as the persistence of prejudices, albeit disguised, against them, he nevertheless felt that it was a positive sign that, in recent years, the Chilean authorities had apparently recognized a problem that affected 8 per cent of the 15 million Chileans. Although it had to be admitted that the struggle for the identity, dignity and rights of the indigenous minorities had been long and arduous and the process had been impeded by incidents, which were still occurring, it was encouraging to learn that, according to a study carried out by the Department of Sociology of the University of Chile in 1996, 71 per cent of Chileans rejected discrimination (para. 18 of the report).

16. In his view, other highly positive steps included the establishment in 1993 of the National Indigenous Development Corporation (CONADI), of which a large proportion of the management and staff were indigenous, as well as the adoption in the same year of the Indigenous Act which provided, in particular, for the protection of indigenous lands and the establishment of an Indigenous Lands and Waters Fund, an Indigenous Development Fund and a judicial system that recognized the particularities of the indigenous communities (para. 32). The Chilean Government should continue to report to the Committee on the progress achieved and the difficulties encountered in the application of that Act and should endeavour to ensure that the indigenous populations participated effectively in the activities of CONADI.

17. He inquired whether the delegation could inform the Committee of the present status of the constitutional reform bill that had apparently been debated in the Parliament since 1991 and under which the tribes would be recognized as indigenous populations, thereby turning Chile into a multi-ethnic nation. He also wished to know whether it could provide clarifications concerning the position of the Chilean authorities on one of the most serious disputes in recent years, namely that between the Pehuenche communities of Quinquén and logging companies (para. 36).

18. While welcoming the fact that, by virtue of the establishment of an Indigenous Lands and Waters Fund, the indigenous inhabitants had been able to acquire ownership of thousands of hectares of land, he wished to know whether there was any truth to the allegation that land ownership conflicts still persisted.

19. With regard to the struggle against ethnic and racial stereotypes and discrimination against immigrants, the decision of the Chilean Supreme Court in the case of racial discrimination involving a Korean immigrant (para. 63 of the report) obviously constituted a major precedent. However, there seemed to be a need for the Chilean and Peruvian authorities to undertake a joint study

of the specific problem of Peruvian migrant workers whose situations differed depending on whether they worked on the border of Peru, in the Arica region or elsewhere, especially at Santiago (para. 68), in order to find an equitable solution and prevent Peruvian women, particularly those working in the Arica region, from being subjected to double discrimination.

20. Although pleased to learn that, through the Indigenous Act, Chile now had a specific article under which manifest and intentional discrimination against indigenous persons on grounds of their origin and culture was a punishable offence (para. 76), he drew the delegation's attention to the fact that article 4, paragraphs (a) and (b), of the Convention applied to all forms of discrimination and not solely to discrimination against indigenous persons. Chile should therefore amend its penal legislation in conformity with that article. With regard to the application of article 6, he welcomed the fact that legal judgements had been handed down in a case of racial discrimination and that the guilty party had been ordered to pay a large amount of money by way of compensation (para. 78) and he hoped that, in future, the State party would continue to inform the Committee of similar cases.

21. On the other hand, the information provided concerning the other ethnic and national groups living in Chile was, in his opinion, fairly brief. In fact, according to paragraphs 10 to 17 of the report, immigrants who had suffered from discrimination were now fully integrated in Chilean society but no mention had been made of the question of the probable discrimination against the population of African origin who had interbred with the Chilean population over the ages.

22. He also requested the delegation to express its point of view concerning various alleged violations of the rights of indigenous inhabitants. He mentioned, in particular, the case of Pedro Cayuqueo, a Mapuche leader, who had been arrested at Santiago on 9 May 1999 on his return from Geneva where he had participated in the work of the Commission on Human Rights, before which he had denounced the violations committed against the Mapuches in the provinces of Arauco and Malleco. Thirteen Mapuche leaders had also apparently been arrested on 6 May 1999 and the president of the Nancucheo Association at Lumaco had allegedly been imprisoned on 27 March 1999. Following those incidents, complaints had been filed against the Chilean authorities by Amnesty International and the European Parliament. The Committee would like to obtain details on that subject. He also wished to know whether the delegation could comment on the information received by the Committee concerning some neo-Nazi groups, especially the "Dignidad" colony, a German community established in 1971 which was apparently a hideout for former Nazis and neo-Nazis.

23. Mr. FERRERO COSTA welcomed the resumption of the dialogue with the State party and hoped that the next periodic report would be submitted on schedule. The report under consideration contained frank and clear information concerning the situation of the indigenous populations, but it seemed that full effect was not being given to the provisions of the Convention in some fields. For example, although the Constitution made general provision for equality of citizens before the law, it made no specific reference to the various forms of discrimination, particularly racial discrimination. In that regard, he deplored the fact that the secretariat had not distributed the core

document (HRI/CORE/1/Add.103), which certainly contained valuable information concerning the implementation of the various instruments to which the State was a party.

24. Moreover, the existence of various forms of racial discrimination in Chilean society was recognized (para. 17 of the report) and it had also been learnt (para. 18) that a study conducted in 1996 on intolerance and discrimination had shown that one fifth of the population harboured xenophobic prejudices. In that regard, the assimilation of racial discrimination to xenophobia might not be fully legitimate as discriminatory practices were not necessarily attributable to xenophobic ideology. The Chilean Government still had an obligation to work towards the progressive and radical elimination of all forms of racial discrimination. However, the report itself provided little information concerning measures taken to that effect with the exception of the adoption, in 1993, of the Indigenous Act which definitely constituted a step forward, particularly in the light of the provisions made for the restitution of land to the indigenous inhabitants or expansion of the area of the lands that they possessed. Although the oral information that the delegation had provided concerning the Indigenous Lands and Waters Fund and the Indigenous Development Fund was very valuable, he would like to have a more precise idea of the percentage of agricultural land that had been restored to the indigenous populations and the financial conditions under which those operations had taken place. He also wished to know whether the delegation could explain whether the "bilingual cross-cultural education system" mentioned in paragraph 32 (f) was a limited pilot project or a programme that covered the whole country.

25. With regard to the establishment of a judicial system that recognized the particularities of the indigenous communities (para. 32 (h)), he wished to know what exactly was meant by recognition of custom "as a means of proof" and whether that was a legal norm applicable specifically to the indigenous communities. The system of legal conciliation between the parties, as a procedure preceding or replacing the classic judicial proceedings, seemed to be very interesting.

26. Part III of the report, concerning new migratory flows, had also attracted his attention and he requested a clarification of paragraph 73 in which it was stated that relations between Chileans and migrant workers were "ambiguous". The special work permit rules for Peruvian citizens (para. 69) also seemed to be clearly discriminatory insofar as it had to be certified that there was no Chilean who was interested in or who could do the work in question. He inquired whether the delegation could comment on that subject. Finally, he would like to have additional explanations concerning the implementation of article 5 of the Convention and concerning the situation of the mestizos in the towns, as the report referred mainly to the situation of the indigenous inhabitants in rural areas.

27. Mr. van BOVEN endorsed the comments and questions of the preceding speakers and said that he was awaiting, in particular, explanations on the question of the "Dignidad" colony to which the country rapporteur had already referred. In fact, he wondered how the existence of that colony could be reconciled with article 4 (b) of the Convention. Moreover, with reference to paragraph 32 (c), he wished to know the extent to which the provisions of

article 13 of the Indigenous Act of 1993, under which indigenous lands enjoyed legal protection and could not be transferred, seized, encumbered or acquired through prescription, were systematically reflected in the strategies that the authorities were following in that connection. He also wished to know what role the National Indigenous Development Corporation (CONADI) had played in the transfer of lands to the indigenous communities and whether it was involved in the formulation of policies concerning those communities.

28. With reference to the new migratory flows (part III of the report), he wished to know what status was granted to Korean immigrants in regard to access to education and health and acquisition of Chilean citizenship and whether specific measures were applied to them. Paragraphs 63 and 64 of the report mentioned one of the first trials for racial discrimination in Chile, involving a Korean immigrant who had been denied access to a health and recreation centre. He found it surprising that the Supreme Court, when ruling that the fact of preventing a person from entering any public place on grounds of race, gender, language or religion constituted unequal treatment and discrimination, had based its decision on the provisions of the Charter of the United Nations, the International Covenant on Civil and Political Rights and the American Convention on Human Rights without referring to the International Convention on the Elimination of All Forms of Racial Discrimination. Did that imply that the Convention was underrated in Chile? It was also very surprising to learn that racial discrimination, although not explicitly designated as an offence in Chilean criminal law, was punishable under the international treaties in force in the country (para. 64 of the report), as article 4 of the Convention actually placed the States parties under an obligation to declare an offence punishable by law any act of discrimination based on colour or ethnic origin. In that regard, he wondered whether, for example, Chilean legislation prohibited the non-recruitment or dismissal of an employee on the basis of his ethnic origin. At all events, the State party seemed to need more complete anti-discriminatory legislation.

29. Finally, he wished to know whether the Chilean authorities intended to introduce human rights training in the programmes of police and military academies as they had done for law-enforcement agents, whether they were considering ratification, in the near future, of article 8, paragraph 6, of the Convention, which had been adopted by the States parties, and the extent to which the general public was familiar with the Convention. In particular, he wished to know whether the report under consideration and the Committee's concluding observations would be translated into the country's various languages and widely disseminated. In conclusion, he noted with satisfaction that Chile had made the declaration recognizing the Committee's competence, as provided for in article 14, paragraph 1, of the Convention.

30. Mr. WOLFRUM commended, in particular, the frank manner in which the State party had presented the historical background and the situation of the indigenous minorities. He hoped that other countries, which likewise had a dismal record in that regard, would adopt an equally lucid and objective approach. However, it might be wondered why, at the present time, a return to the old political discourse, which openly discriminated against the indigenous populations, was said to be only "very difficult" (para. 23 of the report) and not totally impossible.

31. The most important point was that the situation of the indigenous inhabitants had improved considerably in recent years by virtue of a combination of factors referred to in paragraph 22 of the report. Article 1 of the Indigenous Act, which stipulated that society and the State had a duty, through their institutions, to respect, protect and promote the development of the indigenous inhabitants, as well as their cultures, communities and lands, gave full effect to the Committee's General Recommendation XXIII (51) concerning those populations and their lands. With regard to the establishment of a bilingual cross-cultural education system (para. 32 (f)), he wished to know whether the authorities were also encouraging the non-indigenous population to learn the Mapuche language, as the Australian authorities had done in the case of the Maori language, for example.

32. Returning to a matter of concern raised by Mr. Ferrero Costa, namely the lack of constitutional provisions specifically prohibiting all forms of racial discrimination, he wished to know the reason for that shortcoming. In particular, he requested clarifications concerning the ranking of the international treaties ratified by Chile and whether their provisions had been incorporated in the domestic legal system. If, in fact, there were a direct link between Chilean domestic law and international human rights instruments, the absence of national legislation prohibiting discrimination might just be understandable. Failing such a link, however, the State party would not be respecting its obligations under the Convention. He also wished to know whether the authorities intended to introduce into the Constitution a reference to the multi-ethnic and multicultural nature of the country similar to that which appeared in the Indigenous Act.

33. With regard to his main concern, namely the effective application of the Indigenous Act, it seemed that, in some disputes between multinational corporations and indigenous communities or some of their members to which reference had already been made, the Government had not reacted in an appropriate manner and he wondered about the extent to which that Act had effectively made it possible to modify the land ownership system that had been inherited from the past. He too was awaiting the delegation's explanations concerning the "Dignidad" colony.

34. In spite of those reservations, he felt that the positive aspects clearly outweighed the negative aspects and that the Indigenous Act and the policy that the Chilean Government was currently pursuing were highly encouraging. He hoped that further progress would be noted during the consideration of the State party's next report.

35. The CHAIRMAN pointed out that the State party's argument to the effect that there were no Indians, but only Chileans, was not necessarily open to criticism provided that it meant that the indigenous populations had the same rights as Chileans. He wished to know whether the languages spoken by those populations had a written form.

36. Mr. de GOUTTES said that the report gave a frank account of the situation of the indigenous populations in Chile and of the problems of racial discrimination with which they were still sometimes faced. The most notable of the numerous positive and commendable steps that had been taken lay in the Indigenous Act which sought to promote the economic and cultural development

of the indigenous populations and their members and, in particular, to facilitate their access to land ownership. He welcomed the decision taken by the State party to make the declaration provided for in article 14 of the Convention but wished to add some questions to those that had already been raised.

37. First of all, paragraph 20 of the report noted a growing tendency to substitute Spanish family names for Mapuche patronymics. Bearing in mind the recent measures taken to improve the situation of the indigenous populations, he wished to know whether that phenomenon, which bore witness to an identity crisis, was on the wane. In paragraph 32 (h), it was further stated that the Indigenous Act had established a judicial system that duly took into account the particularities of the indigenous communities through a "more streamlined and rapid" procedure. He wished to know whether the delegation could explain the nature of those special rules, which seemed to be an example of the positive discrimination referred to in article 1, paragraph 4, of the Convention. Concerning paragraph 64, as Mr. van Boven had already pointed out, in the State party racial discrimination was punishable directly under the terms of the international treaties in force. In his view, that statement was surprising since, although a treaty could actually define and criminalize an offence, it could not determine the punishment and the penalties that it entailed, which fell within the sole jurisdiction of domestic law. With regard to equal access to employment, he shared the concerns expressed by Mr. Ferrero Costa at the potentially discriminatory nature of the special rules applicable in Chile to the work permits granted to Peruvian citizens, to which reference was made in paragraph 69 of the report. It was also stated in the report (para. 76) that the Indigenous Act designated manifest and intentional discrimination against indigenous persons on the grounds of their origin or culture as a criminal offence. Although that was an important provision, it might be limited in two respects. Firstly, the offence of racial discrimination was punishable only by a fine, albeit of a large amount, but entailed no penalty of imprisonment. That seemed to indicate that the offence of racial discrimination ranked low in the scale of Chilean criminal offences. Secondly, the report did not say whether the criminal law also punished racial discrimination against non-indigenous persons such as foreign communities, for example.

38. Finally, he was aware of a report issued by the Corporación de promoción y defensa de los derechos del pueblo (CODEPU) and the International Federation of Human Rights (FIDH) which noted the persistence of acts of police brutality and infringements of the freedom of movement of persons belonging to indigenous communities, particularly Mapuches. He hoped that the delegation would let the Committee hear its comments on those allegations. He also wished to know what measures had been taken, or were to be taken, by the Government to develop human rights education, tolerance and inter-ethnic understanding among the police and, more generally, among all the law-enforcement agents in Chile.

39. Mr. BANTON, referring to the case of racial discrimination mentioned in paragraph 63, inquired whether a licence was needed to operate the type of establishment implicated therein. Since the Supreme Court had handed down a clear ruling in that case, could it not be stipulated that the operators of such establishments who committed acts of discrimination would incur the loss

of their licence? That penalty could also be made applicable to all establishments the operation of which required a licence (hotels, restaurants, etc.). Likewise, in order to prevent tenants from being harassed by neighbours for racially-motivated reasons, it could be stipulated that such acts constituted a breach of the rent contract for which the culprits could be evicted. In general, the State party seemed to place excessive reliance on the Penal Code to prevent racial discrimination and was not taking sufficient advantage of the possibilities for action offered by administrative or civil law. Finally, with regard to the concept of intentional discrimination referred to in paragraph 76, it should be noted that, according to article 1, paragraph 1 of the Convention, racial discrimination meant any act that was discriminatory not only in its purpose but also in its effects. He hoped to hear the delegation's viewpoint on that subject.

40. Mr. YUTZIS shared the generally positive feelings expressed by the experts concerning the quality and the relevance of Chile's report and of the further information that had been provided by the delegation. By way of reservation, he wished to highlight some matters of concern and add a personal comment. Firstly, he wondered about the exact status of the indigenous populations under the Constitution and would like the Chilean delegation to provide more explanations on that subject. His second question concerned the application of article 4 of the Convention. In his statement, a representative of Chile had referred to a planned reform of the Penal Code with a view to preventing certain forms of discrimination more effectively, through publicity or in publications, etc. He wished to know the extent to which that would target individuals or bodies corporate. In particular, what was Chile's position in regard to political parties or organizations of a racist nature. His third and main concern related to article 5 of the Convention and the exercise of economic and social rights. In fact, the Constitution did not seem to recognize the right to health, the right to education or the right to work but rather the right of choice in regard to health, education or work. Since paragraph 71 of the report indicated that the integration of migrant Peruvian workers in Chile appeared to depend on the labour market situation, there was reason to wonder about the protection that was effectively enjoyed by the groups that were most vulnerable in that regard. That complex question was also directly related to the one raised by Mr. Ferrero Costa concerning the situation of the indigenous inhabitants in urban areas where the most acute problems of marginalization and exclusion were encountered.

41. Finally, on the same subject of the situation of migrant workers in Chile, the country rapporteur had mentioned some problems in the region of Arica. He wished to know the present state of affairs and suggested that there might be a need to undertake a review of the Constitution in order to prevent civilians from being prosecuted in the military courts in future.

42. Mr. Diaconu took the Chair.

43. Mr. GARVALOV said that, according to a publication entitled The Indigenous World, 1998-1999 which was issued by the International Working Group for International Affairs, since the beginning of 1999 there had been open conflict between the Chilean authorities, private companies and the Mapuches. As that information contradicted the statements made in the report,

it would be useful to hear the delegation's comments on that subject. He regretted that the information concerning the application of articles 3, 4 and 5 of the Convention had been so meagre. The Committee would like to know more about the legislation prohibiting organizations that professed and practised a racist ideology, as well as the detailed provisions of Chilean legislation that gave effect to article 4. With regard to recognition of the contribution that the indigenous populations were making to cultural diversity, he thought that the statements by the two Presidents of the Republic of Chile, to which reference was made in paragraph 23 of the report, were insufficient since account should also be taken of the viewpoints of public opinion, non-governmental organizations and institutions. Finally, he had been rather puzzled to read in paragraph 24 that, during the 1992 census, persons over the age of 14 had been asked to "assign themselves" by choosing between the Mapuche, Aymara and Rapa Nui cultures. He wondered whether those persons had actually been forced to define their identity in one way or another.

The meeting rose at 6.05 p.m.